in New York shares of stock of the defendant, a New Jersey corporation. The defendant corporation maintained an office in New York for the transfer of shares. *Held*, that the certificates constituted property in the state for the purpose of founding administration. *Lockwood* v. *United States Steel Corporation*, 50 N. Y. L. J. 961 (N. Y. Ct. App., Nov. 25, 1913).

The principal case is clearly right. The state of New York had complete power over the chose in action represented by the certificates, since, there being a transfer office in the state and the corporation itself being liable to suit there, the courts of the state could furnish the remedies for a complete reduction to possession. *In re Clark*, [1904] 1 Ch. 294. The same principle applies to insurance policies. *New England Mutual Ins. Co.* v. *Woodworth*, 111 U. S. 138, 4 Sup. Ct. 364; *Morgan* v. *Mutual Benefit Ins. Co.*, 187 N. Y. 447, 82 N. E. 438. A more difficult question arises when all that exists as a basis for the attempt to found administration is the certificate itself. *Richardson* v. *Busch*, 198 Mo. 174, 95 S. W. 894. It is held that the certificate is taxable where it is, irrespective of the domicil of the corporation or owner. *Stern* v. *Queen*, [1896] 1 Q. B. 211; *Dwight* v. *Boston*, 12 Allen (Mass.) 316. The certificate can be attached under the same circumstances. *Simpson* v. *Jersey City Co.*, 165 N. Y. 193, 58 N. E. 896; *Puget Sound Nat. Bank* v. *Mather*, 60 Minn. 362, 62 N. W. 396. And by the American view a transfer of the certificate gives a complete irrevocable power of attorney to reduce to possession. *Leyson* v. *Davis*, 17 Mont. 220, 42 Pac. 775; *Grymes* v. *Hone*, 49 N. Y. 17. It would seem, therefore, that the courts as well as laymen consider the certificate itself a thing of value. *In rerum natura* a chose in action has no real *situs*. Its locality therefore should be governed by the possibility of control over its reduction to possession. Two different states may conceivably possess this control, and therefore it is submitted that administration might be had of the interest where the certificate is, as well as at the domicil of the corporation. The authorities, however illogically it seems, in view of the attachment and taxation cases, deny this possibility. The courts call the certificate merely evidence of the interest, and require that the interest be capable of complete reduction to possession within the state before allowing administration of it there. *Richardson* v. *Busch*, *supra*; *Grayson* v. *Robertson*, 122 Ala. 330, 25 So. 229; *Murphy* v. *Crouse*, 135 Cal. 14, 66 Pac. 971.

CONSTITUTIONAL LAW — PERSONAL RIGHTS — LIBERTY TO CONTRACT — STATUTE INVALIDATING CONTRACTS FOR ARBITRATION OF FUTURE DISPUTES. — A statute declared void any provision in a contract whereby the award of any person was made conclusive of the rights of the parties thereunder. *Held*, that the statute is repugnant to a clause of the state constitution guaranteeing the right of "acquiring and possessing property." *Adinolfi* v. *Hazlett*, 242 Pa. 25, 88 Atl. 869.

For a discussion of the legislative power to limit freedom of contract, see NOTES, p. 372.

CONTRACTS — SUITS BY THIRD PERSONS NOT PARTIES TO THE CONTRACT — UNASCERTAINED AND INCIDENTAL BENEFICIARY. — In consideration of a conveyance of land by a person now deceased, the defendant promised to maintain him during life and to pay his funeral expenses at death. Representatives of the undertaker who buried the deceased sue on the promise. *Held*, that they cannot recover. *Lockwood* v. *Smith*, 143 N. Y. Supp. 480 (Sup. Ct.).

In New York a third person can recover on a contract to which he is not a party, only when he has a legal right, founded on some obligation of the promisee to him, to adopt and claim the promise as made for his benefit. *Vrooman* v. *Turner*, 69 N. Y. 280. The principal case denies recovery on this ground. This requirement bases the right of the third party to an action at law on his

equitable right as an attaching creditor of the promisee. See WILLISTON'S WALD'S POLLOCK ON CONTRACTS, 245. It is not required that the promisee have an existing liability to the third party at the time of contracting. *Coster* v. *Mayor, etc. of Albany*, 43 N. Y. 399. Nor does it seem a valid objection to recovery, that the promise, as in the principal case, is an asset available only to the promisee's estate. A man's interest in securing the convenient discharge of obligations arising after death may be as real as with regard to obligations existing during life. The jurisdictions which recognize the insurance policy type of third party contracts do not require that the sole beneficiary be ascertained when the promise is made. *Whitehead* v. *Burgess*, 61 N. J. L. 75, 38 Atl. 802. Where the beneficiary is not a mere donee this seems even less essential. *Coster* v. *Mayor, etc. of Albany, supra*, 412; *Chanute National Bank* v. *Crowell*, 6 Kan. App. 533, 51 Pac. 575. But since allowing the third party an action at law, although a well-established doctrine is perhaps anomalous, it may be justifiable to restrict this right to cases where it clearly appears that performance was to be rendered to the third party directly, and not to the promisee. *Cf. Burton* v. *Larkin*, 36 Kan. 246, 13 Pac. 398; *Thomas Mfg. Co.* v. *Prather*, 65 Ark. 27, 44 S. W. 218. This practical limitation would support the result in the principal case, where it was not clear that the promise was to pay the undertaker directly rather than the deceased's representatives. *Contra, Riordan* v. *First Presbyterian Church*, 3 Misc. (N. Y.) 553, 23 N. Y. Supp. 323, aff'd 6 Misc. (N. Y.) 84, 26 N. Y. Supp. 38; *Traver* v. *Snyder*, 34 Misc. (N. Y.) 406, 69 N. Y. Supp. 750.

COPYRIGHT — PROTECTION OF FICTION ORIGINALLY PUBLISHED AS NEWS. — The plaintiff was the assignee of the copyright privileges on matter which he had contributed to a newspaper as news, although it was in reality the product of his imagination. The defendant produced a play into which the author had incorporated as the essence of the plot the incident which the article purported to describe. *Held*, that the plaintiff could not recover under the COPYRIGHT ACT (Act of March 3, 1891, c. 565; 26 Stat. at Large, 1106). *Davies* v. *Bowes*, 50 N. Y. L. J. 913 (U. S. Dist. Ct., S. D. N. Y.).

At common law the author of a literary composition is protected in his property right to the original manuscript, which includes the sole right of first publishing the same for sale. *Press Pub. Co.* v. *Monroe*, 73 Fed. 196; and see *Donaldson* v. *Becket*, 4 Burr. 2408, 2417. American and English courts differ as to whether he also enjoyed a perpetual right in the publication of his works, but both agree that the enactment of a coypright law limits the protection to the term of years specified. *Donaldson* v. *Becket*, 4 Burr. 2408; *Wheaton* v. *Peters*, 8 Pet. 591. As to news, nothing but the form in which it is cast receives protection at common law or under copyright laws. *Walter* v. *Steinkopf*, [1892] 3 Ch. 489; and see *Tribune Co.* v. *Associated Press*, 116 Fed. 126, 128. The common law, however, recognizes a property right in news, as such, where it has acquired an intrinsic commercial value by reason of prompt dissemination. *Nat. Tel. News Co.* v. *Western Un. Tel. Co.*, 119 Fed. 294. But, in the principal case, the article was fiction, ordinarily the peculiarly appropriate subject of copyright, and the court assumes that the only obstacle to recovery was the publication under the guise of news. The result cannot be supported upon the authority which denies the validity of a copyright on a work published under a false title, with intent to defraud the public, for in the principal case the deception was too trivial. See *Wright* v. *Tallis*, 1 C. B. 893, 906. But the defendant acted in reliance upon the plaintiff's representation that the article was news, and, therefore, not the subject of copyright. Obviously the plaintiff should now be estopped from causing the defendant damage by alleging the contrary. There would be no objection, however, to an injunction restraining further infringement by the